

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, claims 31-50 were pending in the application, of which claims 31 and 34 are independent. In the Office Action dated April 6, 2006, claims 31-50 were rejected under 35 U.S.C. § 112, second paragraph and 35 § 103(a). Following this response, claims 31-37 and 39-50 remain pending in this application. New independent claim 51 is presented. Applicants hereby address the Examiner's rejections in turn.

I. Amendments to the Specification

In the April 6, 2006 Office Action, the Examiner objected to an amendment to the specification made in Applicants' previous Amendment. Applicants herein amend the specification to cancel the amendment to which the Examiner objected. Accordingly, Applicants believe that the Examiner's objection is overcome by this Amendment.

II. Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected claims 31-50 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Examiner asserted that the term "furnace" and/or "drawing furnace" is indefinite in light of Applicants' assertion on page 18 of Applicants' Amendment filed on February 7, 2006 that the holding chuck 7 disclosed in U.S. Patent No. 4,988,374 ("Harding") does not meet the support collar recited in claim 38. Applicants' previously presented arguments with respect to holding chuck 7 of Harding were not intended to suggest that a furnace or drawing furnace could not comprise a chuck. Instead, Applicants arguments were

intended to point out that Harding's holding chuck 7 does not meet the limitations recited in claim 38. Although claim 38 has been canceled herein, a similar limitation is incorporated into claim 34 and Applicants clarify their arguments regarding Harding herein. Accordingly, as Applicants do not argue that a furnace or drawing furnace cannot comprise a chuck, Applicants respectfully request that the Examiner's rejection under 35 U.S.C. § 112, second paragraph be withdrawn.

III. Claims 41-45

In the July 7, 2005 Office Action, the Examiner stated that the prior-art rejections presented therein would be dropped if Applicants overcame the 35 U.S.C. § 112 rejection made with respect to claims 41-45. Applicants note that the 35 U.S.C. § 112 rejections referenced by the Examiner were overcome by Applicants' February 7, 2006 Amendment. However, in the April 6, 2006 Office Action, the Examiner maintained the prior-art rejections made in the July 7, 2005 Office Action. Accordingly, as Applicants have overcome the 35 U.S.C. § 112 rejections made in the July 7th Office Action with respect to claim 41, Applicants' respectfully request that the prior-art rejections with respect to those claims also be withdrawn.

Applicants' further respectfully assert that the 35 U.S.C. § 112 rejection made in the April 6, 2006 Office Action has also been overcome. Accordingly, Applicants' respectfully assert that claims 41-45 are in condition for allowance.

IV. Rejection of the Claims Under 35 U.S.C. § 103(a)

The Examiner rejected claims 31-39 and 50 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Serial No. 2002/00229591 ("Dickinson") or U.S. Patent No. 5,284,499 ("Harvey") in view of Japanese Patent Publication No.

08091862 to Kuwabara Kazuya ("Kazuya"), U.S. Patent No. 5,160,359 ("Strackenbrock") and U.S. Patent No. 4,547,644 ("Bair"), and optionally in view of U.S. Patent No. 4,988,374 ("Harding"). To establish a *prima facie* case of obviousness, the cited combination must teach or suggest all limitations of the rejected claims. MPEP 2142. Because the cited combination does not teach or suggest every limitation of amended claim 31, the Examiner has not established a *prima facie* case of obviousness.

Applicants have amended claim 31 to recite, among other things,

a distributor body having a substantially annular distribution chamber and an outlet in fluid communication with an interior of the muffle, the distributor body configured to receive conditioning gas substantially tangentially with respect to the substantially annular distribution chamber and to uniformly introduce and forcedly direct the conditioning gas into the muffle in a downward direction towards said furnace body, the distributor body further comprising a porous filter interposed between the annular distribution chamber and the outlet.

None of the references cited by the Examiner discloses a distributor body comprising "a porous filter interposed between the annular distribution chamber and the outlet." Applicants note that the Examiner rejected claim 37, which includes a similar recitation, asserting that the use of porous filters to help evenly distribute air pressure is known. However, the Examiner has cited nothing that teaches or suggests the use of porous filters to improve uniformity of the flux of conditioning gas introduced into a preform-drawing environment. Instead, the Examiner relies on the benefit of a hindsight reconstruction based on the benefit of the Applicants' disclosure. As a matter of law, a finding of obviousness is proper only when the prior art contains a suggestion or teaching of the claimed invention. Here, it is only Applicant's disclosure that provides

such a teaching, and the Applicants' disclosure cannot be used to reconstruct the prior art to make an obviousness rejection. *In re Spon Noble*, 56 160 USPQ 237, 243 (C.C.P.A. 1969)(The Court must be ever alert not to read obviousness into an invention on the basis of the applicant's own statements).

The furnace 10 of Paek corresponds to the furnace body recited in Applicants' claim 31.¹ Paek comprises a susceptor 34 comprising a plurality of stacked susceptor tubes 62 positioned along the entire vertical extension of furnace 10. Upper 62, like middle 62 and lower 62, is part of susceptor 34. (Paek, col. 4, lines 14-16). Reference to FIG. 3 clearly shows that upper 62 does not terminate at the upper end of the furnace body. To the contrary, upper 62 is located within the furnace body. Accordingly, Paek does not teach or suggest a muffle "connected to the upper end of said furnace body" as recited in amended claim 31. Further, the Examiner has pointed to nothing in the other cited references disclosing this feature. Accordingly, a *prima facie* case of obviousness has not been established. Applicants therefore respectfully request that the rejection of claim 31 be withdrawn. Because claims 32-33 and 50 depend from claim 31, and therefore include each of its limitations, Applicants request that the rejection of those claims be withdrawn, as well.

The Examiner also rejected claim 31 over Paek in view of Harding, Miller, Kazuya and U.S. Patent No. 3,793,812 to Willis ("Willis"). Applicants are unclear whether the Examiner relies on Willis in addition to Miller, or instead of Miller.

¹ Applicants note that element 26 of Paek is a silica beaker, whereas element 10 is described as the furnace. (Paek, col. 2, lines 20-24).

Regardless, the Examiner has not pointed to any structure of Willis that teaching or suggesting a muffle connected to the upper end of a furnace body, as recited in amended claim 31. Accordingly, a *prima facie* case of obviousness has not been established, and this rejection of claim 31 should be withdrawn.

The Examiner also rejected claims 34-39 over Paek in view of Harding, Miller and Kazuya. Like claim 31, claim 34 has been amended to recite, among other things, "a muffle connected to the upper end of said furnace body, said muffle comprising a mechanical seal for avoiding inlet of ambient air into the furnace, said muffle being adapted to surround the optical preform before the optical preform is moved into said furnace body." Because upper 62 of Paek does not meet this limitation of amended claim 34, and because the Examiner has not pointed to any structure in the other cited references meeting this limitation, a *prima facie* case of obviousness has not been established. Accordingly, Applicants respectfully request that the rejection of claims 34-39 be withdrawn.

Applicants note that, with regard to claims 36 and 37, the Examiner states that because Applicant has not traversed the Examiner's Official Notice that it is well known to use fins to distribute gases and to provide adjustability and to use a porous material to help evenly distribute air pressure, it is now admitted prior art. While Applicants do not dispute that fins have been used in other contexts to distribute gases or that porous materials have been used to help evenly distribute gas pressure, Applicants do not concede that either fins or porous materials have been used in the environment in which they are used in the present invention. As the Examiner's taking of Official Notice did not state that the use of fins or porous materials is known in the environment in which

they are used in the present invention, Applicants respectfully deny that the use of fins as recited in claim 36 or a porous material as claimed in claims 31 and 37 has been admitted to be prior art by Applicants.

The Examiner rejected claims 38-45 over Paek in view of Harding, Miller, Kazuya and Kaiser. However, because the Examiner has not established a *prima facie* case of obviousness with respect to claim 34, from which each of claims 38-45 depend, the rejection of those claims should be withdrawn. The Examiner also rejected claim 45 over Paek in view of Harding, Miller, Kazuya and Koaizawa. Because the Examiner pointed to no structure of Koaizawa meeting the muffle limitation of amended claim 34, no *prima facie* case of obviousness has been established. Accordingly, this rejection should be withdrawn, as well.

The Examiner rejected claims 46-49 over Paek in view of Harding, Miller, Kazuya, Willis and EP Patent No. 0867412 ("Uhm"). Because the Examiner has pointed to no structure of Willis or Uhm meeting the muffle limitation of amended claim 31, no *prima facie* case of obviousness has been established. Accordingly, Applicants respectfully request that the rejection of claims 46-49 be withdrawn.

The Examiner indicated that claims 41-45 would be allowable if Applicants overcome the 35 U.S.C. § 112 rejections. Based on the above-described amendments to the specification, Applicants submit that, with the amendment, claims 41-45 are in condition for allowance.

Applicants further note that in the July 7, 2005 Office Action, the Examiner stated that claims 41-45 would be allowable if Applicants overcame the 35 U.S.C. § 112 rejections made in the July 7th Office Action. Applicants note that they have overcome

the 35 U.S.C. § 112 rejections made in the July 7th Office Action, and respectfully assert that the 35 U.S.C. § 112 rejection made in the April 6, 2006 Office Action has also been overcome. Applicants respectfully assert that the rejection of claim 41 under 35 U.S.C. § 103 made in the April 6th Office Action has previously been overcome. Further, the Examiner cites no art teaching or suggesting the use of Enerseals in the manner recited in claim 41. Accordingly, a *prima facie* case of obviousness has not been established with regard to any of claims 41-45, and Applicants respectfully request that the rejection of these claims be withdrawn.

VI. Conclusion

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 10, 2006

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